Remarks

Applicant respectfully traverses the rejections presented in the instant Office Action because the rejections are based on the "Hellwig" reference, which is not identified by the Examiner (*e.g.,* by patent number or otherwise). As such, Applicant is unable to determine the propriety of the proposed combination and the rejections cannot be maintained. Should the Examiner issue a new Office Action that contains a rejection based upon the Hellwig reference, Applicant respectfully requests that the Examiner specifically identify the Hellwig reference so that Applicant can be afforded an opportunity to respond.

The final Office Action dated September 23, 2008 listed the following rejections: claims 1-10, 12-14, 16 and 18 stand rejected under U.S.C. § 103(a) over Kilkki (U.S. Patent No. 6,411,617) in view of Hellwig (not identified in the instant Office Action); and claims 11, 15, 17 and 19 stand rejected under U.S.C. § 103(a) over Kilkki in view of Hellwig and further in view of Cisneros (U.S. Patent No. 5,157,654).

Applicant further traverses the § 103(a) rejections because modifying Kilkki such that ports 118 and 120 are subject to the same contention resolution process as ports 116, 117, 122, and 123 would render Kilkki unsatisfactory for its intended purpose. *See e.g.,* M.P.E.P. § 2143.01 and *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984) ("If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification."). A stated purpose of the Kilkki reference is to provide a network that recognizes SIMA (Simple Integrated Media Access) packets and that accounts for the quality of service principles provided by a SIMA service class within a conventional, non-priority-based network such as an ATM network. *See, e.g.,* Col. 3:25-36. Specifically, Kilkki teaches that network node congestion control is applied to the data packets at dedicated output port 118 to selectively accept or discard the data packets in accordance with pre-defined SIMA priority principles, whereas congestion control applied at the I/O ports (116, 117, 122 and 123) of conventional ATM switch 112 is non-priority-based. *See, e.g.,* Figure 8, Col. 3:14 to Col. 4:2, and Col. 12:52 to Col. 13:41. Applicant submits that if one were to subject Kilkki's ports (116, 117, 118, 120, 122 and 123) to a common non-priority-based contention resolution process then Kilkki's network would be rendered unable to accommodate the priority principles of SIMA, and if one were to subject Kilkki's

ports to a common contention resolution process that accounts for the priority principles of SIMA then it would undermine Kilkki's purpose of allowing a SIMA network to be integrated with a conventional, unmodified ATM network switch. As such, modifying Kilkki to subject ports 118 and 120 to the same contention resolution process as ports 116, 117, 122 and 123 would render Kilkki unsatisfactory for its intended purpose. Thus, there is no motivation for the skilled artisan to modify the Kilkki reference in the manner proposed by the Examiner. Accordingly, the § 103(a) rejections are improper and Applicant requests that they be withdrawn.

Applicant notes that minor amendments have been made to claim 1 to improve readability. These amendments are not being made to overcome any of the rejections raised by the Examiner, which fail for at least the reasons discussed above.

In view of the remarks above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Aaron Waxler, of NXP Corporation at (408) 474-9068.

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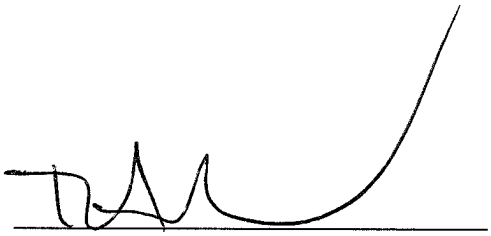
By: 

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